

## IN THE HIGH COURT OF SINDH, KARACHI

**Present:**

**Mr. Justice Muhammad Karim Khan Agha  
Mr. Justice Nisar Ahmed Bhanbhro**

### **Const. Petition No.D-5413 of 2023**

(Ms. Sanober Gul Abro & another Vs. Province of Sindh & others)

Petitioners : Mr. Salahuddin Chandio, Advocate  
 Respondents : Mr. Ali Safdar Depar, AAG.  
 Date of hearing : **18.03.2025**  
 Date of Announcement : **21.03.2025.**

### **ORDER .**

**Nisar Ahmed Bhanbhro, J.** The case of the petitioner's is that they were appointed as Sindhi Language Teacher (BPS-15) in the Education Department, Government of Sindh, pursuant to the advertisement published in daily newspaper "DAWN" dated 12.02.2012. The petitioners were appointed by due process of law but they were denied their service rights.

2. The petitioners filed Service Appeals No.784 of 2015 and 119 of 2015 before the Sindh Service Tribunal at Karachi. The said Service Appeals were disposed of, vide order dated 22.04.2015 and 30.04.2015 respectively with directions to the respondents to scrutinize the petitioners case. If the petitioners file a representation for the release of their salaries or any other relief before the Director School Education Karachi, the operative part of the judgment is reproduced for the sake of convenience as under:-

**"If the representation is made to the Director School Education Karachi Region, Karachi.**

- i. **Copy of the advertisement of the post applied for.**
- ii. **The evidence of submitting the application within due date in the concerned office. In this behalf the inward register in the concerned office shall also be examined to ascertain whether there is any entry of submission of application in the inward register.**
- iii. **The copies of the degrees/certificates on the relevant date in possession of applicant, in accordance with prescribed qualification for the post advertised.**

- iv. **The evidence that after scrutiny of application, letters were issued for their written test.**
- v. **The documents showing that she appeared in written test and qualified the same**
- vi. **The evidence if after qualifying written test she was called for interview by the concerned recruitment/selection committee and official record shall be examined to ascertain that applicant qualified the written test and viva voice and thereafter was duly selected for appointment against post applied for**
- vii. **The departmental instructions issued by the Secretary Education in respect of fresh appointment and approval if any shall be examined and if any approval of selection list was required. Such approved list of selected candidates shall be thoroughly examined to ascertain whether name of the appellant was included therein.**
- viii. **The outward register shall be examined to ascertain that the offer letter was issued to applicant.**
- ix. **The inward register shall be examined to ascertain that the offer was accepted in writing and the acceptance letter shall be located.**
- x. **The outward register shall be examined to ascertain that the appointment letter was issued after receiving the acceptance letter if any.**
- xi. **The record of the institution where she was posted shall be examined to ascertain that she duly joined her respective posting.**
- xii. **The genuineness of Medical Certificate shall also be examined.**
- xiii. **Her service book if any shall also be examined thoroughly.”**

3. In compliance with the judgment passed by the Sindh Service Tribunal the cases of the petitioners along with other appointees were placed before the Scrutiny Committee. The committee after due consideration, forwarded its recommendation to the Secretary School Education and Literacy Department, Karachi. The Secretary School Education and Literacy Department, Karachi upon scrutiny issued a notification dated 26.09.2022, listing 206 employees, who were found eligible by the Scrutiny Committee for appointment in service. However, the petitioners names were not included in the said list. Aggrieved by this, the petitioners have preferred the instant petition seeking a direction to the official respondents for the release of their salaries in BPS-15

including in the seniority and grant of promotion in accordance with law.

4. Notice was issued to respondents No.3 & 4, who have filed their reply. In paragraph No.5 of the reply, Education Department has contended that upon scrutiny, the petitioners were not found eligible for appointment in service. Therefore, they were not considered for joining the service or for the release of their salaries.

5. We have heard the arguments and perused the material available on record.

6. The petitioners claim that they were appointed in 2012 by the Education Department Govt. of Sindh, after fulfilling the codal formalities. However, they were not paid their monthly salaries, which led them to challenge the matter before the Service Tribunal by filing service appeal. The Service Tribunal as mentioned supra, issued directions to the Education Department to scrutinize the petitioner's cases, after ascertaining the codal formalities were duly completed to release their salaries. Subsequently, the petitioners' cases were placed before the Scrutiny Committee. Based on the findings of the Scrutiny Committee, the Secretary, School Education Department Govt. Sindh vide order dated 26.09.2022 issued a list of eligible appointees for joining the service. The petitioners were not declared eligible during the scrutiny process. Admittedly, the petitioners are civil servants and matter related to terms and conditions of service viz. the release of salaries, seniority and promotion. However, instead of challenging the findings of the Scrutiny Committee through a departmental appeal or a service appeal, they have filed the instant petition before this Court for seeking relief for matters pertaining to the year 2012.

7. We have examined that the case of the petitioners minutely and we find that the relief sought cannot be granted under the writ jurisdiction of this Court. The petitioners have, on their own accord, availed the remedy by filing a service appeal before the Service Tribunal for the same relief. This

Court in view of Article 212 of the Constitution lacks jurisdiction to entertain such matters, as the dispute essentially involves questions of law and fact which have already been decided. Accordingly, the instant petition being devoid of merit is dismissed along with pending application, if any. However, the petitioners may avail remedy available to them under the law, if so advised.

**JUDGE**

**HEAD OF CONST. BENCHES**

Manthar Brohi